

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

PAVON EMILIO,	)	4:13CV3088
	)	
Plaintiff,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
ROBERT P. HOUSTON, Director,	)	
FRED BRITTEN, Warden, and L.	)	
ANTHOLZ, Officer,	)	
	)	
Defendants.	)	

This matter is before the court on Plaintiff Pavon Emilio's Motion to Stay Case Progression (Filing No. [63](#)) and Motion to Appoint Counsel (Filing No. [64](#)). The court will deny both motions.

In Plaintiff's Motion to Stay Case Progression, Plaintiff asks for an order staying progression of this case until after the court rules on Plaintiff's motion for an order compelling discovery. The court very recently denied Plaintiff's discovery motion without prejudice to reassertion of a motion brought pursuant to Rule 56(d) of the Federal Rules of Civil Procedure. (See Filing No. [62](#).) In addition, on December 2, 2014, the court cancelled the final pretrial conference that was then scheduled for March 19, 2015, pending resolution of Defendants' summary judgment motion. (See Filing No. [55](#).) Thus, an order staying progression of this case is unnecessary at this time. The court will direct the clerk's office to send to Plaintiff copies of Filing Numbers 55 and 62.

With respect to Plaintiff's motion seeking appointment of counsel, the court cannot routinely appoint counsel in civil cases. In [Davis v. Scott, 94 F.3d 444, 447 \(8th Cir. 1996\)](#), the Eighth Circuit Court of Appeals explained that "[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel. The trial

court has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel[.]” *Id.* (internal citation and quotation marks omitted). No such benefit is apparent here at this time. Thus, the request for the appointment of counsel will be denied without prejudice to reassertion.

IT IS ORDERED:

1. Plaintiff’s Motion to Stay Case Progression (Filing No. [63](#)) is denied for the reasons explained above. The clerk’s office is directed to send to Plaintiff copies of Filing Numbers 55 and 62 together with this Memorandum and Order.

2. Plaintiff’s Motion to Appoint Counsel (Filing No. [64](#)) is denied without prejudice to reassertion.

DATED this 21st day of January, 2015.

BY THE COURT:

*s/ John M. Gerrard*  
United States District Judge

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